

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
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Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Michael Nash, Co-chair
Hon. Mary Ann Grilli, Co-chair
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DATE: November 1, 2002

SUBJECT: Juvenile Law: Joint Assessment Procedures for Children (adopt Cal.
Rules of Court, rule 1403.5) (Action Required)

Issue Statement

New rule 1403.5 implements Senate Bill 940 by establishing procedures for use whenever a child appears to come within the description of both Welfare and Institutions Code section 300 (dependent child of the juvenile court) and section 601 (ward of the juvenile court for status offense) or section 602 (ward of the juvenile court for violation of law).

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2003, adopt rule 1403.5 to establish the joint assessment procedure required by Senate Bill 940. The text of the new rule is attached at pages 4–6.

Rationale for Recommendation

New rule 1403.5 implements Senate Bill 940 by establishing a uniform statewide procedure whenever a child appears to come within the description of both Welfare and Institutions Code section 300 (dependent child of the juvenile court) and 601 (ward of the court for status offense) or 602 (ward of the juvenile court for violation of law). Senate Bill 940 amended Welfare and Institutions Code section 241.1 to require a joint assessment whenever a child who is under the jurisdiction of the juvenile court in one county is alleged to come within the jurisdiction of the juvenile court in another county. The legislation requires that the responsible child welfare and probation departments of the two counties complete a joint assessment to determine which status will serve the best interest of the child and the protection of society. Prior to the passage of Senate Bill 940, Welfare and Institutions Code section 241.1 already required a joint assessment by the probation and child welfare

departments within a county whenever a child appears to come within the description of both Welfare and Institutions Code section 300 and 601 or 602.

The new rule clarifies the requirements of Welfare and Institutions Code section 241.1 for a joint assessment by the child welfare and probation departments. The rule provides timelines for completion of the joint assessment, filing of the joint assessment report, hearing on the joint assessment, and notice of the decision on the joint assessment to any other juvenile court with current jurisdiction over the child. The rule clarifies that the joint assessment report must contain the joint recommendation of the probation and child welfare departments if they agree on the appropriate status for the child, or the separate recommendation of each department if they do not agree. In addition, the rule clarifies which department must file the joint assessment report, who is entitled to notice and to participate in the joint assessment hearing, and establishes a requirement that the probation and child welfare departments in each county submit a copy of their local protocol for the completion of joint assessment reports to the Judicial Council on or before January 1, 2004.

If the petition alleging jurisdiction is filed in the same county where the child is already a dependent or ward, the child welfare and probation departments in that county must assess the child in accordance with a jointly developed written protocol. If a petition is filed in another county, the proposed rule requires the child welfare and probation departments of those two counties to make recommendations to the court in which the second petition was filed.

The proposed rule requires notice of a hearing on the joint assessment to be served on the child, the child's parent or guardian, all attorneys of record, any Court Appointed Special Advocate, and any other juvenile court having jurisdiction over the child. The rule requires the juvenile court to conduct a hearing on the joint assessment as soon as possible after or concurrent with the detention hearing on the second (or later) petition, but no later than 15 court days after the order of detention and before the jurisdictional hearing to determine which type of jurisdiction over the child would best meet the child's unique circumstances. Within five calendar days after the juvenile court's decision, the clerk of the juvenile court will be required to transmit the court's findings and orders to any other juvenile court having jurisdiction over the child.

The proposed rule also requires the probation and child welfare departments of each county to adopt a written protocol for preparation of joint assessment reports, and to submit a copy to the Judicial Council on or before January 1, 2004. By July 1, 2003, the committee will propose forms for the joint assessment report and the orders after hearing under Welfare and Institutions Code section 241.1.

Alternative Actions Considered

The committee considered not proposing a rule to implement the requirements of Senate Bill 940 and clarify the other requirements of Welfare and Institutions Code section 241.1. However, the committee believes that a uniform statewide procedure is necessary to assist the juvenile courts, probation departments, and child welfare agencies in implementing the law.

Comments From Interested Parties

The invitation to comment on the proposal was circulated to the normal Rules and Procedures (RUPRO) circulation by mail and by posting on the Judicial Council website. It was circulated from March 28, 2002 through June 7, 2002.

Sixteen commentators responded with comments. Eight commentators approved of the rule as drafted. Six commentators agreed with the rule if modified. Two commentators did not agree with the rule. One commentator suggested that the proposed rule be amended to require that a statement from the child's attorney be included in the joint assessment report. That change has been made.

Two commentators stated that the short time frames would be difficult to meet. However, the short time frames are necessary to ensure that the decision regarding status is made in a timely manner.

Another commentator noted that some departments already have protocols that meet the statutory mandates. However, a uniform statewide procedure is necessary to implement the requirements of Welfare and Institutions Code section 241.1. One commentator believed the decision regarding a child's status should be made by the county with the history of the child. The committee believes there are a variety of factors that may influence which jurisdiction is in the best position to make a decision regarding a child's status. Hence, the proposed rule would require the child welfare agency and probation department to provide the information needed for the court to make a fully informed decision regarding the child's status.

One commentator suggested that the proposed rule be revised to require the agency that prepares the joint assessment report to provide a copy of it to the social worker. The committee does not believe this is necessary, since the social worker will be involved in the joint assessment, and have knowledge of the contents of the report.

The comments and committee's responses are summarized in the attached chart at pages 7–12.

Implementation Requirements and Costs

Although courts may incur costs to comply with the requirements of Welfare Institutions Code section 241.1, as amended by Senate Bill 240, there are no additional costs associated with the adoption of rule 1403.5.

Attachments

Rule 1403.5 of the California Rules of Court is adopted, effective January 1, 2003,
to read:

Rule 1403.5. Joint assessment procedure

(a) [Joint assessment requirement (§ 241.1)] Whenever a child appears to come within the description of section 300 and either section 601 or section 602 of the Welfare and Institutions Code, the responsible child welfare and probation departments must conduct a joint assessment to determine which status will serve the best interest of the child and the protection of society.

(1) The assessment must be completed as soon as possible after the child comes to the attention of either department.

(2) Whenever possible, the determination of status must be made before any petition concerning the child is filed.

(3) The assessment report need not be prepared before the petition is filed but must be provided to the court for the hearing as set forth in (e).

(4) If a petition has been filed, on the request of the child, parent, guardian, or counsel, or on the court's own motion, the court may set a hearing for a determination under section 241.1 and order that the joint assessment report be made available as required in (f).

(b) [Proceedings in same county] If the petition alleging jurisdiction is filed in a county in which the child is already a dependent or ward, the child welfare and probation departments in that county must assess the child under a jointly developed written protocol and prepare a joint assessment report to be filed in that county.

(c) [Proceedings in different counties] If the petition alleging jurisdiction is filed in one county and the child is already a dependent or ward in another county, a joint assessment must be conducted by the responsible departments of each county. If the departments cannot agree on which will prepare the joint assessment report, then the department in the county where the petition is to be filed must prepare the joint assessment report. The joint assessment report must contain the recommendations and reasoning of both the child welfare and the probation departments. The report must be filed at least 5 calendar days before the hearing on the joint assessment in the county where the second petition alleging jurisdictional facts under sections 300, 601 or 602 has been filed.

1 **(d) [Joint assessment report]** The joint assessment report must contain the
2 joint recommendation of the probation and child welfare departments if
3 they agree on the status that will serve the best interest of the child and the
4 protection of society, or the separate recommendation of each department if
5 they do not agree, and must also include:

6
7 (1) A description of the nature of the referral;

8
9 (2) The age of the child;

10
11 (3) The history of any physical, sexual, or emotional abuse of the child;

12
13 (4) The prior record of the child's parents for abuse of this or any other
14 child;

15
16 (5) The prior record of the child for out-of-control or delinquent
17 behavior;

18
19 (6) The parents' cooperation with the child's school;

20
21 (7) The child's functioning at school;

22
23 (8) The nature of the child's home environment;

24
25 (9) The history of involvement of any agencies or professionals with the
26 child and his or her family;

27
28 (10) Any services or community agencies that are available to assist the
29 child and his or her family;

30
31 (11) A statement by any counsel currently representing the child; and

32
33 (12) A statement by any Court Appointed Special Advocate currently
34 appointed for the child.

35
36 **(e) [Hearing on joint assessment]** If the child is detained, the hearing on the
37 joint assessment report must occur as soon as possible after or concurrent
38 with the detention hearing, but no later than 15 court days after the order of
39 detention and prior to the jurisdictional hearing. If the child is not detained,
40 the hearing on the joint assessment must occur prior to the jurisdictional
41 hearing and within 30 days of the date of the petition. The juvenile court
42 must conduct the hearing and determine which type of jurisdiction over the
43 child best meets the child's unique circumstances.

- 1
2 **(f) [Notice and participation]** At least 5 calendar days before the hearing,
3 notice of the hearing and copies of the joint assessment report must be
4 provided to the child, the child's parent or guardian, all attorneys of record,
5 any Court Appointed Special Advocate, and any other juvenile court having
6 jurisdiction over the child. The notice must [be directed to the judicial](#)
7 [officer or department that will conduct the hearing.](#)
8
9 **(g) [Conduct of hearing]** All parties and their attorneys must have an
10 opportunity to be heard at the hearing. The court must make a
11 determination regarding the [appropriate](#) status of the child and state its
12 reasons on the record or in a written order.
13
14 **(h) [Notice of decision after hearing]** Within 5 calendar days after the
15 hearing, the clerk of the juvenile court must transmit the court's findings
16 and orders to any other juvenile court with current jurisdiction over the
17 child.
18
19 **(i) [Local protocols]** On or before January 1, 2004, the probation and child
20 welfare departments of each county must adopt a written protocol for the
21 preparation of joint assessment reports, including procedures for resolution
22 of disagreements between the probation and child welfare departments, and
23 submit a copy to the Judicial Council.
24

Comments for SPR02-31
Juvenile Law: Joint Assessment Procedure for Children

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Diane Blair Riverside County Probation Department	A	N	Our department is working with the child welfare agency to update our current 241.1 protocol so that it will be in compliance with the new rule.	No response required.
2.	Mr. James Egar Public Defender Superior Court of Santa Barbara County	A	N	No comment.	No response required.
3.	Mr. Richard Francis Orange County Probation Department	N	N	<ol style="list-style-type: none"> 1. Welf. & Inst. Code section 241.1 already specifies criteria, protocol, and timelines for the joint assessment. Hence, the proposed rule is redundant and would place an unnecessary burden on probation and social services departments. 2. The Judicial Council does not have regulatory authority to review probation or social services procedures. 3. Some departments already have protocols that meet the statutory mandates. 4. The proposed rule adds requirements that do not exist in the statute (e.g., if the child is detained, the joint assessment report must be 	<ol style="list-style-type: none"> 1. The proposed rule clarifies the requirements of Welf. & Inst. Code section 241.1 for a joint assessment by the child welfare and probation departments. The information required by the proposed rule is necessary for the court to determine the appropriate status for the child. 2. The Judicial Council has authority to adopt rules for court administration, practice, and procedure. (Cal. Const., art VI, § 6). 3. The proposed rule will implement Senate Bill 940 by establishing uniform statewide procedure whenever a child appears to come within the description of both Welf. & Inst. Code section 300 and 601 or 602. 4. The Judicial Council has authority to adopt rules for court administration, practice, and

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				<p>prepared within 15 days).</p> <p>5. The proposed rule implies that probation departments and child welfare agencies must first resolve disagreements. It is unreasonable to resolve all disagreements administratively rather than allowing for judicial prerogative when they cannot agree.</p>	<p>procedure. (Cal. Const., art VI, § 6). The information required by the proposed rule is necessary for the court to determine the appropriate status for the child.</p> <p>5. Proposed rule 1403.5(c) requires the joint assessment report to contain either the joint recommendation, if they agree, or the recommendations and reasoning of both the child welfare and probation departments. The juvenile court would make the determination of status.</p>
4.	Mr. Michael K. Frawley Chief Deputy District Attorney Ventura County District Attorney's Office	AM	N	The word “must” should not replace the word “shall.”	On October 27, 2000, the Judicial Council adopted the use of “must” rather than “shall” in all amendments to the California Rules of Courts, effective January 1, 2001.
5.	Mr. José Guillén Superior Court of Riverside County	A	N	No comment.	No response required.
6.	Hon Brenda F. Harbin-Forte Superior Court of Alameda County	N	N	1. The dispositional hearing is often the best place for the court to receive a comprehensive assessment regarding the child’s status. The jurisdictional hearing may be pushed out as a result of the requirements of the proposed rule. This could result in undue delay for victims and witnesses.	1. The proposed rule has short time frame requirements to avoid the problems raised by the commentator. The proposed rule requires the child welfare/probation department to prepare and file the joint assessment report at least 5 calendar days before the hearing

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				<p>2. In cases involving more than one county, the decision regarding status should be made by the county that has the history with the child. Otherwise, a county with very little contact with the child will make the decision about the child's status. Under current rules, the transferring county can send the case to the county of the child's residence for disposition after the jurisdictional hearing is conducted.</p>	<p>on the report. The hearing must occur as soon as possible after or concurrent with the detention hearing, but no later than 15 court days after the detention hearing and prior to the jurisdictional hearing if the child is detained.</p> <p>2. There are a variety of factors that may influence which jurisdiction is in the best position to make a decision regarding a child's status. The proposed rule would require the child welfare agency/ probation department to provide the information needed for the court to make the decision.</p>
7.	Sylvia J. Johnson Chief Probation Officer Alameda County Probation Department	AM	N	<p>1. This procedure will be very problematic unless resources are provided to implement it. Too often detention is used due to a lack of community shelter care.</p> <p>2. Language should be added to Welf. & Inst. Code section 241.1 to prohibit detention unless a criminal act is involved. Most 241.1 cases involve mentally ill youth raised in the</p>	<p>1. Although resources are a concern, Welf. & Inst. Code section 241.1 requires a joint assessment whenever a child appears to come within the description of both Welf. & Inst. Code section 300 and 601 or 602. The proposed rule establishes a uniform statewide procedure to implement this mandate.</p> <p>2. This recommendation is outside the scope of the proposal.</p>

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				foster care system.	
8.	Michael P. Judge Los Angeles County Public Defender	AM	N	Rule 1403.5(e) should be modified to specifically allow the juvenile court to continue the 241.1 hearing if a party to the proceeding establishes good cause pursuant to Welf. & Inst. Code section 682(b) and rule 1486.	Welf. & Inst. Code section 682(b) already allows the court to continue any hearing relating to proceedings under section 601 or 602.
9.	Ms. Miriam A. Krinsky Dependency Court Legal Services, Inc.	AM	Y	Rule 1403.5(d) should be amended to include “(11) A statement by any counsel currently representing the child.”	Agree. The proposed change has been made.
10.	Hon. Cindee F. Mayfield Superior Court of Mendocino County	A	N	As a judge, I really like this rule and appreciate the structure it will provide for the agencies that are required to prepare joint assessment reports. However, the agencies will find it difficult to comply with the short time frames.	The proposed rule is necessary to ensure that the court has all the necessary information to determine the appropriate status for a child in a timely manner.
11.	Ms. Linda Shelton Glenn County Probation Department	A	N	No comment.	No response required.
12.	Hon. Harry R. Sheppard Superior Court of Alameda County	A	N	No comment.	No response required.
13.	Ms. Monique R.I. Wilson Riverside County Department of Public Social Services	AM	N	1. Overall, the proposal is sound. However, it seems to require three hearings: detention (or arraignment), a joint assessment hearing, and a jurisdictional hearing. In our county, there are only two hearings: detention and the 241.1 hearing. If the jurisdictional hearing and the joint assessment hearing are held at the same time, the word “findings” should be	1. Proposed rule 1403.5(f) requires the joint assessment hearing to be a noticed hearing so that all the appropriate parties may participate in the hearing. Some courts may choose to hold the joint assessment hearing and the jurisdictional hearing on the same day. Use of

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				<p>used instead of the word “hearings.” Otherwise, it seems to require three separate, calendared court dates.</p> <p>2. Five (5) days is an insufficient time period for the juvenile court clerk to send a copy of the joint assessment report and notice to all parties. We suggest the report be filed three (3) days prior to the hearing instead.</p> <p>3. The determination of status being made prior to the petition being filed is problematic. It is unlikely that the either the social worker or the probation officer will know what the youth’s status should be prior to the petition being filed.</p>	<p>the word “findings” instead of the word “hearing” may cause confusion regarding the need for notice to be provided to all parties of the joint assessment hearing.</p> <p>2. We did not receive comments from juvenile court clerks indicating that it would be difficult for them to send copies of the joint assessment report and notice of the hearing to all parties within the proposed time frames.</p> <p>3. Proposed rule 1403.5(a)(2) and (a)(3) do not require a determination of status to be made prior to a petition being filed unless it is possible to do so.</p>
14.	Ms. Minnie Monarque Deputy Chief Executive Officer Superior Court of Monterey County	A	N	No comment.	No response required.
15.	Mr. Marc Buller Santa Clara County District Attorney’s Office	A	N	No comment.	No response required.
16.	Ms. Ana Espana, County of San Diego	AM	N	1. Notice of the hearing and the right to participate should be provided to the child, his or her attorney, and the child’s parents or	1. Proposed rule 1403.5(f) requires notice of the hearing and copies of the joint assessment report to be

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				<p>legal guardians.</p> <p>2. Copies of the joint assessment report should be provided to the child's delinquency attorney, the child's dependency attorney, and the social worker.</p>	<p>provided to the child, the child's parent or guardian, all attorneys of record, any Court Appointed Special Advocate, and any other juvenile court having jurisdiction over the child. Proposed rule 1403.5(g) requires all parties and their attorneys to have an opportunity to be heard at the hearing.</p> <p>2. Proposed rule 1403.5(f) requires the joint assessment report to be provided to all attorneys of record. The social worker will be involved in the joint assessment and therefore have knowledge of the contents of the report.</p>